

### **REMARKS**

The Office Action dated March 27, 2008, has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

Claims 1-2, 5-13 and 16-17 are pending. Claims 5, 7, 9-11 and 16-17 were withdrawn from consideration pursuant to an Election of Species Requirement dated March 7, 2007. Claims 1, 5-12, 16, and 17 are amended. Support for the amendments can be found at least on page 13, lines 27-29 and page 14, lines 15-23 of the specification. No new matter has been added. Accordingly, claims 1, 2, 6, 8, 12, and 13 are respectfully submitted for consideration.

### **Withdrawal of Rejection of Claims under 35 U.S.C. 102/103**

Applicants appreciate the indication by the Examiner that the arguments presented by the Applicants in the Response filed on January 7, 2008 were deemed persuasive and that the rejection of the claims 1-4, 6, 8 and 12-15 under 35 U.S.C. § 102 and 35 U.S. C. § 103 has been withdrawn.

### **Entry of Response Proper**

Entry of this Amendment is proper under 37 C.F.R. §1.116 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issues requiring further search and/or consideration on the part of the Examiner as the Amendment merely clarifies the claimed features of the invention; (c) satisfy a requirement of form asserted in the previous Office Action; (d) do not present any additional claims without canceling a corresponding number of finally rejected claims; and (e) place the application in better form for appeal, should an appeal be necessary. The Amendment is necessary and

was not earlier presented because it is made in response to objections raised in the Final Rejection. Entry of the Amendment is thus respectfully requested.

**Claim Rejections -- 35 U.S.C. 112**

The Office Action rejects claims 1, 8 and 12 under 35 U.S.C. §112. The Office Action does not state which paragraph of 35 U.S.C. §112 the rejections are under. Applicants believe the rejection to apply under 35 U.S.C. §112, second paragraph, and traverse the rejection based upon this assumption.

The Office Action rejects claims 1 and 12 under 35 U.S.C. §112, second paragraph, for being indefinite. The claims have been amended to obviate the rejection. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph, rejection.

The Office Action rejects the claims as being narrative and indefinite. The claims have been amended to obviate the rejection. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph, rejections.

The Office Action rejects claims 6, 8 and 12 under 35 U.S.C. §112, second paragraph, for insufficient antecedent basis. The claims have been amended to obviate the rejection. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph, rejections.

**Rejections Under 35 U.S.C. § 103**

Claims 1-2 and 12-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,794,207 to Walker et al. (Walker), in view of U.S. Patent No. 5,627,973 to Armstrong et al. (Armstrong), further in view of Official Notice. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al.

in view of Armstrong et al. (Armstrong), in view of Official Notice, and further in view of U.S. Patent No. 5,765,138 to Aycock et al. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al., in view of Armstrong et al. (Armstrong), in view of Official Notice, in view of Aycock et al., and further in view of U.S. Publication No. 2001/0044767 to Madoff et al. (Madoff). To the extent the rejections remain applicable to the claims as amended, Applicants respectfully traverse the rejections as follows.

Claim 1 recites a system for determining overall capability of a trading partner, in a bidding system with which trading partners present their bidding prices via a network, in response to a bid invitation presented by a buyer company, including at least “to select a trading partner to supply the bid invitation from the bidding trading partners based on the bidding prices and the weighted overall scores, the selected trading partner being one whose bidding price is not greater than a target price plus x% and who has the highest overall score of capabilities.”

Walker, in col. 11, lines 44-50, discloses that potential sellers can view conditional purchase offers from buyers and allows the sellers to bind these conditional offers by the buyer. Walker does not disclose or suggest selecting a “trading partner being one whose bidding price is not greater than a target price plus x% and who has the highest overall score of capabilities,” as recited in amended claim 1. Instead, Walker, in col. 16, lines 29-43, discloses the buyer may indicate conditions to the CPO 100 where the conditions are given a point value. However, there is no disclosure in Walker that these conditions indicated by the buyer are stored in the seller database

260, as stated in the Office Action on page 4, or even used to select a trading partner as claimed.

Armstrong, in the abstract and col. 1-2, discloses a method and apparatus for evaluating business opportunities for supplying goods. Armstrong assigns weights and values to question responses by potential customers to indicate a potential customer's score. Armstrong, in col. 9, lines 63-66, discloses that the weight can vary about ten percentage points either way. However, showing the weights can vary by a percentage does not suggest that a bidding price is not greater than a target price plus x%. Thus, there is no disclosure in Armstrong to suggest selecting "a trading partner to supply the bid invitation from the bidding trading partners based on the bidding prices and the weighted overall scores, the selected trading partner being one whose bidding price is not greater than a target price plus x% and who has the highest overall score of capabilities," as recited in amended claim 1.

Aycock and Madoff fail to teach the above features, and therefore, fail to cure the deficiencies of Walker and Armstrong.

For at least the above reasons, Applicants submit that claim 1 is allowable over the cited references. As claim 1 is allowable, Applicants submits that claims 2, 6 and 8 which depend from allowable claim 1, are likewise allowable over the cited references, as well as the additional features recited therein.

For similar reasons as those discussed with regard to claim 1, Applicants submit that claim 12 is allowable over the cited references. As claim 12 is allowable, Applicants submit that claim 13 which depends from allowable claim 12, are likewise allowable over the cited references, as well as for the additional features recited therein.

## **Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Accordingly, the Applicants respectfully request withdrawal of the objections and rejections, allowance of claims 1, 2, 6, 8, 12, and 13 and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 108426-00013.**

Respectfully submitted,



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